

**BEFORE THE ALABAMA DEPARTMENT  
OF REHABILITATION SERVICES**

**IN RE: THE MATTER OF CALVIN SCOTT**

**A Full and Evidentiary Hearing Pursuant to the Randolph-  
Sheppard Vending Act 20 U.S.C. 107, et seq.**

**VOLUME I**

**[Pages 1 to 75]**

# FREEDOM COURT REPORTING

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BEFORE THE ALABAMA DEPARTMENT  
OF REHABILITATION SERVICES

**ORIGINAL**

IN RE: THE MATTER OF CALVIN SCOTT

A FULL EVIDENTIARY HEARING PURSUANT TO THE  
RANDOLPH-SHEPPARD VENDING ACT 20 U.S.C.  
107, et seq.

\* \* \* \* \*

TESTIMONY AND PROCEEDINGS, taken  
before the Honorable Frank S. James, III,  
as Hearing Officer, and reported by  
Virginia Denese Barrett, Court Reporter  
and Commissioner for the State of Alabama  
at Large, at 2129 East South Boulevard,  
Montgomery, Alabama, on the 6th day of  
October, 2005, commencing at approximately  
10:00 a.m.

\* \* \* \* \*

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BEFORE THE ALABAMA DEPARTMENT  
OF REHABILITATION SERVICES

IN RE: THE MATTER OF CALVIN SCOTT

A FULL EVIDENTIARY HEARING PURSUANT TO THE  
RANDOLPH-SHEPPARD VENDING ACT 20 U.S.C.  
107, et seq.

BEFORE:

VIRGINIA DENESE BARRETT, Commissioner

APPEARANCES:

BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C., by Mr. Frank  
S. James, III, SouthTrust Tower, 420  
Twentieth Street North, Suite 1600,  
Birmingham, Alabama 35203, appearing as  
the Hearing Officer.

DEPARTMENT OF REHABILITATION  
SERVICES, by Mr. Stephen K. Simpson, 2129  
East South Boulevard, Montgomery, Alabama  
36111, appearing on behalf of the Alabama

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1 Department of Rehabilitation Services.

2 OFFICE OF THE ATTORNEY GENERAL,  
3 by Ms. Margaret Fleming, 11 South Union  
4 Street, Montgomery, Alabama 36130,  
5 appearing on behalf of James "Buddy"  
6 Swearengin.

7 ALSO PRESENT:

8 Mr. Calvin Scott, Pro Se

9 Ms. Gladys Scott

10 Mr. Ray Dennis

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1 HEARING OFFICER: We are here to  
2 conduct a full evidentiary hearing in  
3 the matter of Calvin Scott pursuant  
4 to the Court order in the  
5 consolidated cases of Calvin Scott  
6 versus Ray Dennis, Perry Hopper, Ken  
7 Green, State of Alabama Department of  
8 Rehabilitation Services Business  
9 Enterprise Program. That's Civil  
10 Action Number 2:05cv-652-F. Calvin  
11 Scott versus James Buddy Swearengin,  
12 Jr., Civil Action Number  
13 2:05cv-651-T. That's in the United  
14 States District Court for the Middle  
15 District of Alabama.

16 I am Frank James, and  
17 I've been appointed as the hearing  
18 officer to conduct a full evidentiary  
19 hearing to consider Mr. Calvin  
20 Scott's complaints against the  
21 Alabama Department of Rehabilitation  
22 Services that contend that the State  
23 licensing agency has violated the



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1 Randolph-Sheppard Act.

2 Are there any preliminary  
3 matters?

4 MR. SIMPSON: Well, we have had  
5 some discussions about exhibits  
6 preliminarily. And the Department  
7 prepared and presented to the Scotts  
8 as well as Ms. Margaret Fleming who  
9 represents Mr. Swearengin a notebook  
10 containing fifteen exhibits. And  
11 correct me if I'm wrong anybody, but  
12 I believe that we've agreed that in  
13 that notebook Exhibits 1 through 12  
14 and Exhibit 15 are all things that  
15 all of the parties would want to  
16 present to the Hearing Officer.  
17 There's some question as to whether  
18 13 and 14 should be received into  
19 evidence.

20 HEARING OFFICER: That's 1  
21 through 12 and 15?

22 MR. SIMPSON: Yes.

23 HEARING OFFICER: Is that

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1 correct?

2 MS. SCOTT: Yes.

3 MR. SIMPSON: And the Scotts  
4 very graciously presented me with or  
5 aloud me to examine a number of  
6 pieces of correspondence that are not  
7 included in this notebook. They're  
8 correspondence between the Scotts and  
9 the United States Department of  
10 Education. And I don't -- the  
11 Department doesn't have any  
12 objections at all to those pieces of  
13 correspondence being presented.

14 HEARING OFFICER: And where are  
15 they?

16 MR. SIMPSON: Ms. Scott has it.

17 MS. SCOTT: I have them.

18 HEARING OFFICER: Okay. Do you  
19 want to give me those? And I assume  
20 that you two already have them,  
21 Ms. Fleming and --

22 MR. SIMPSON: Yes.

23 HEARING OFFICER: -- and

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1 Mr. Simpson.

2 MR. SIMPSON: Yes.

3 MS. FLEMING: I don't have them,  
4 but I can get them from Mr. Simpson.

5 MR. SIMPSON: The ones that I  
6 was shown this morning were things  
7 that we already had in our file.

8 HEARING OFFICER: Okay. All  
9 right. This is Ms. Scott?

10 MS. SCOTT: Yes. I'm his  
11 assistant.

12 HEARING OFFICER: All right.

13 MS. SCOTT: My husband's  
14 assistant.

15 HEARING OFFICER: Why don't we  
16 identify for the record who else  
17 we've got present here today.

18 MR. SIMPSON: Sure. I'm Stephen  
19 Simpson, and I represent the Alabama  
20 Department of Rehabilitation  
21 Services.

22 MS. FLEMING: Margaret Fleming.  
23 I represent James Swearengin.

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1 MR. DENNIS: Ray Dennis. I'm  
2 program director for the Business  
3 Enterprise Program for the Blind.

4 HEARING OFFICER: Okay. And,  
5 Ms. Scott, would you justify  
6 yourself?

7 MS. SCOTT: I'm Gladys Scott.  
8 I'm Calvin Scott's wife and his  
9 assistant.

10 MR. SCOTT: I'm Calvin Scott.  
11 And I'm the blind vendor at the  
12 Gordon Persons office building.

13 HEARING OFFICER: And our court  
14 reporter is --

15 COURT REPORTER: Denese Barrett.

16 HEARING OFFICER: Denese  
17 Barrett. Very good. Now, I have  
18 just been presented by Ms. Scott a  
19 March 18, 2005 memorandum to Deborah  
20 Steadman of OCR from Calvin Scott,  
21 Jr.

22 MS. SCOTT: Calvin Scott, Sr.

23 HEARING OFFICER: Calvin Scott,

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1 Sr. Excuse me. This looks like a  
2 statement dated February 3rd, 2005  
3 from Calvin Scott, Sr., to the United  
4 States Department of Education Office  
5 for Civil Rights and a June 22nd,  
6 2005 letter from the U. S. Department  
7 of Education Office for Civil Rights  
8 addressed to Calvin Scott, Sr.  
9 Subject complaint Number 05-05-3004.  
10 Now, are there any objections to my  
11 receiving these --

12 MR. SIMPSON: No.

13 HEARING OFFICER: -- documents  
14 as exhibits, which we will mark  
15 Exhibits 16, 17 and 18 I guess?

16 Those of us who are not lawyers  
17 maybe have never participated in a  
18 hearing before. But typically when  
19 we have hearings, we give the parties  
20 the opportunity to make opening  
21 statements. And opening statements  
22 are designed to -- to help the finder  
23 of fact find out what the case is all

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1 about. And in this case, I am the  
2 finder of fact. We typically let the  
3 claimant make an opening statement  
4 first, and then we let the responding  
5 party make an opening statement  
6 second. Now, an opening statement is  
7 certainly not required. It's up to  
8 the parties. Either of the parties  
9 may waive their right to make an  
10 opening statement, but it's entirely  
11 up to you-all.

12 Mr. Scott, I'll ask you if you  
13 would like to make an opening  
14 statement.

15 MR. SCOTT: Yes, I would.

16 HEARING OFFICER: All right.  
17 Then we will hear from you.

18 MR. SCOTT: First of all, we are  
19 here because the judge ordered us to  
20 go through these hearings. And this  
21 is what we are here for today. And  
22 the next thing is is that we did no  
23 wrong for us to really be here. And

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1 had things -- had -- had -- well,  
2 I've got to go back to James  
3 Swearengin, first of all. He's the  
4 cause of the problem, telling lies on  
5 us.

6 HEARING OFFICER: Now, who is  
7 James Swearengin?

8 MR. SCOTT: He was the building  
9 manager at the Gordon Persons office  
10 building.

11 HEARING OFFICER: Go ahead. I'm  
12 sorry. I didn't mean to interrupt  
13 you.

14 MR. SCOTT: Anyway, he told lies  
15 on myself and my wife and plus the  
16 fact stating that we threatened to  
17 bring a gun in that building to shoot  
18 personnel.

19 HEARING OFFICER: Excuse me.  
20 Can we just hold off on the  
21 paperwork, shuffling the papers until  
22 we get through this.

23 MS. SCOTT: Okay.

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1 HEARING OFFICER: Go ahead.

2 MR. SCOTT: Now, he wrote Ken  
3 Green a letter stating that he wanted  
4 us out of that building and that he  
5 was not -- claiming not to put up  
6 with our wrongdoing in that building,  
7 which we did no wrong at all. And  
8 all he did was tell lies, which this  
9 agency went along with his lies  
10 because they -- one day we were  
11 coming in to work on the 31st of  
12 January when we had gotten a swipe  
13 key through my representative, Ken  
14 Green.

15 MS. SCOTT: You got that in  
16 2004.

17 MR. SCOTT: We got that in 2004.  
18 But on the 31st of January, that --  
19 no. 27th of January, that key was  
20 keyed out from the room up there on 4  
21 Monroe and Ripley Street. And my  
22 wife went to him on the 31st of  
23 January and told him about the key.



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1 He said, Well, who gave you this key.

2 HEARING OFFICER: Are we  
3 referring to Mr. Swearengin?

4 MR. SCOTT: Mr. James Buddy  
5 Swearengin.

6 HEARING OFFICER: Okay.

7 MR. SCOTT: She said you did.  
8 Then he asked her again. Said, Who  
9 gave you this key. Did Carol give  
10 you this key? She said, No, you did.  
11 He said, Well, I changed my mind.  
12 And he did not commence to even give  
13 us any kind of consideration about  
14 the key. And his only thing was for  
15 us to get out of that building off of  
16 his lies saying that -- and even in  
17 that letter, he was stating to Ken  
18 Green that when -- one day my wife  
19 was -- and I was coming in with stock  
20 and there was a security guard there  
21 by the name of Fred Morris. He acted  
22 real snobbish about it. And when my  
23 wife did not park the way he wanted

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1 her to park, because she was not  
2 going to try to cause no accident  
3 between that car and the truck, he  
4 jumped up on -- up on the porch and  
5 started cursing at her.

6 HEARING OFFICER: Who did this?

7 MR. SCOTT: Fred Morris, the  
8 security guard. And so I told him, I  
9 said, Now, I'm going to have you done  
10 in about your job, I said, because  
11 I'm going to see that you -- that you  
12 get fired. I did not threaten him  
13 with no bodily harm. And so we went  
14 to talk to James Swearengin about it,  
15 and he got all up in the air. Well,  
16 you're privileged to work in this  
17 building. You -- you -- see, he --  
18 he did not give us any kind of  
19 consideration that we -- that the --  
20 about Fred Morris at all. And so he  
21 said -- and he told -- told us, said,  
22 Well, now, if we -- if we give you  
23 privilege to park in here, we'll be

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1           having respect of persons. And so,  
2           well, anyway, my wife explained to  
3           him about respect of persons. He  
4           said, Well, you have to do like  
5           Jesus. You have to not say nothing.  
6           So she wrote him a letter and  
7           explained to him in that letter --  
8           and she could read that letter to  
9           you, if you want her to.

10           HEARING OFFICER: Would this be  
11           Exhibit 2?

12           MR. SIMPSON: No.

13           HEARING OFFICER: Do we have  
14           this exhibit? Is it an exhibit?

15           MR. SIMPSON: No. I think he's  
16           referring to correspondence that  
17           would be approximately nine years old  
18           from some time ago.

19           MS. SCOTT: May I speak, sir?

20           HEARING OFFICER: Yes.

21           MS. SCOTT: Calvin, are you  
22           finished?

23           MR. SCOTT: Go ahead.

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1 MS. SCOTT: Okay. Back in the  
2 year 2004 when we had the Gordon  
3 Persons Building, my husband's  
4 facility, one of the areas had been  
5 locked and we could not get in on 4  
6 Monroe and Ripley. We name it by the  
7 street. It covers four blocks down  
8 there. So my husband called Ken  
9 Green, his representative, and told  
10 him that we couldn't get in 4 Monroe  
11 and Ripley, that the door coming out  
12 from the elevator had been locked and  
13 we couldn't get in. And so Ken said,  
14 All right. I'll call you back. So  
15 later he called back and said that we  
16 have to go to Swearengin to get a  
17 key. So we tell Ken, Ken, listen.  
18 We shouldn't have to go to Swearengin  
19 to get a key. Calvin is a permanent  
20 vendor here and he should have a  
21 swipe key like the other employees.

22 HEARING OFFICER: When you say  
23 other employees, are you saying that

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1 Mr. --

2 MS. SCOTT: We're talking about  
3 State employees. We're talking about  
4 the janitors that's not State  
5 employees, even though my husband is  
6 told that he's self-employed, that  
7 he's not a State employee. But  
8 janitorial is not State employees  
9 either and they all have swipe keys.  
10 We shouldn't have to run in and out  
11 of his office every time to pick a  
12 key up, a swipe key. But Ken said  
13 he'd work on it. So a few days later  
14 Ken called us back and said, I got it  
15 worked out. And he said, But you  
16 have to go to Swearengin to pick up  
17 the key. So my husband and I, we  
18 went to Swearengin's office and told  
19 them that Ken had sent us there, that  
20 they had a swipe key for us. So he  
21 gave us a swipe key, Swearengin did.  
22 And he said, Keep up with it. Don't  
23 lose it because it cost. Now, he

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1 didn't tell us to pick this key up  
2 and bring it back when you get ready.  
3 And Ken done told us that he had it  
4 worked out so we could have a  
5 permanent swipe key. So we said okay  
6 and went on about our business,  
7 finished doing our work in the  
8 building. All right. On January the  
9 27th -- we had the key for several  
10 months. January the 27th the key  
11 would not unlock the door, which was  
12 on a Thursday. I didn't bother on it  
13 that Friday because I knew we was  
14 going to take that Friday off. So  
15 that Monday, I happened to see James  
16 Swearengin out on the road. And I  
17 told him that his key would no longer  
18 open up the door on 4 Monroe and  
19 Ripley. So he said, Who gave you  
20 this key. And I said, You did. Did  
21 Carol give you this key? I said, You  
22 did and you told us to keep up with  
23 it and not lose it because it cost.

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1 Well, I don't recall giving you a  
2 key. I changed my mind. You're not  
3 a State employee. I said, No, I'm  
4 not a State employee. I said, But my  
5 husband is through the State  
6 Rehabilitation Business Enterprise  
7 Program for the Blind. And I quoted  
8 again to him, You gave us this key  
9 and told us not to lose it, to keep  
10 up with it. Well, I changed my mind.  
11 So he took the key. So I go on back  
12 down to the office, my husband's  
13 stock room and told him what  
14 happened. So we left and came out on  
15 January 31st and had a conference  
16 with Ray Dennis, Calvin's  
17 representative, Ken Green, and told  
18 them what had happened. We put in  
19 three requests. Ray asked what did  
20 you want. I put in -- we put in  
21 three requests. We want a swipe key,  
22 a permanent swipe key. We want the  
23 snack machine moved out of the

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22

1 restaurant that's back in a corner  
2 out of the eye of the people. We  
3 want it moved into the hallway. And  
4 we want a parking place in the  
5 loading dock. I said, We're not  
6 having any problems right now. But  
7 down through the years, Ray, you know  
8 we have had terrible problems parking  
9 in the loading dock. And it's been  
10 times we had to go back home because  
11 we couldn't get a parking place. And  
12 I said every time Ken goes to  
13 Swearengen for a request for us,  
14 Swearengen tells him to tell us to  
15 move. And Ken spoke up and said,  
16 Well, take this request or they might  
17 tell you to move again. I said,  
18 About the swipe key, about this  
19 request here. I said, Y'all are  
20 going to sit by and let that happen.  
21 You're not supposed to let that  
22 happen. He tells us every time  
23 Calvin have a request to make his



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1 work better and enjoyable, that's  
2 under ADA law. We're not -- he's  
3 supposed to be accommodating, and it  
4 doesn't cost him unless it's undue  
5 hardship. But they stood by and  
6 allowed it to happen.

7 So we went on back to work that  
8 day. That's the reason I had the  
9 conference with Ray Dennis and Ken  
10 Green. Well, when we got back down  
11 there, Swearengin didn't -- well, I  
12 didn't document where I -- what  
13 happened to the key. He didn't say,  
14 Here, here's the key back. Instead,  
15 he writes Ken Green a letter. You  
16 have it.

17 MR. SIMPSON: It's Number 2.

18 HEARING OFFICER: All right.

19 MS. SCOTT: Have you got it? Do  
20 you want me to read it?

21 HEARING OFFICER: Yes.

22 MS. SCOTT: It says Mr. --

23 HEARING OFFICER: This is an

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1 undated letter. You don't need to  
2 read it. It has a received February  
3 7th, 2005 stamp on it.

4 MS. SCOTT: Uh-huh. Yes.  
5 That's where I guess Ken received it.  
6 It's undated.

7 HEARING OFFICER: Let me just  
8 take a moment to read it here.

9 MS. SCOTT: Okay. All right.

10 HEARING OFFICER: All right. Go  
11 ahead.

12 MS. SCOTT: Okay. So you read  
13 the letter. But these letters in  
14 here, the slander and liable,  
15 defamations of character, slander and  
16 liable. Now, he said we don't pay  
17 pay-outs. Calvin had a good  
18 relationship. These are payouts for  
19 2004. If the customer's name be put  
20 on the machine, we call them and we  
21 pay them. We had no reason not to  
22 pay anybody because God is good. We  
23 take these off income tax.

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1 HEARING OFFICER: Do you want to  
2 offer these as exhibits, too?

3 MS. SCOTT: 2004 I can because I  
4 have already filed on income tax, and  
5 I've got a copy at home. I keep -- I  
6 sent copies of these with this income  
7 tax so they won't be calling me down  
8 there talking about some audits or  
9 something. So I sent them everything  
10 that we claimed. So you can keep  
11 this 2004 if you want to.

12 HEARING OFFICER: Well, that's  
13 up to you-all. I'm asking if you  
14 want to offer that as an exhibit.

15 MS. SCOTT: You know, whatever  
16 is best for this case. I've got  
17 copies of them. These are 2004.

18 HEARING OFFICER: Well, I assume  
19 you want to offer those as an  
20 exhibit?

21 MR. SCOTT: Yes.

22 HEARING OFFICER: Any objection?

23 MR. SIMPSON: No.

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1 MS. SCOTT: And I've got copies  
2 of 2003. I've got copies of these  
3 where I sent one with the State when  
4 you file State income tax and one  
5 where you file federal income tax.

6 HEARING OFFICER: All right. We  
7 will just mark this as Exhibit Number  
8 19.

9 MS. SCOTT: Down the years we've  
10 been filing.

11 HEARING OFFICER: They will be  
12 received.

13 MS. SCOTT: Then here's 2003.

14 HEARING OFFICER: Do you want to  
15 mark that as an exhibit, too?

16 MS. SCOTT: If you want to. If  
17 you want to.

18 HEARING OFFICER: All right.  
19 That will be -- any objections?

20 MR. SIMPSON: None.

21 HEARING OFFICER: That will be  
22 Number 20.

23 MS. SCOTT: Okay. Now, the ones

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1           for 2005, I haven't ran copies of  
2           them. I always run copies of them  
3           off, you know, and I keep the  
4           originals and send the income tax  
5           people those. And I've got more than  
6           that. I didn't bring them all.  
7           These are refunds we paid out for the  
8           year 2005. So we'll keep them, but  
9           I'm showing they were here that we  
10          have those.

11                   HEARING OFFICER: I understand.

12                   MS. SCOTT: Now, to prove  
13           another point saying that we don't  
14           pay -- don't pay -- don't pay --

15                   MR. SCOTT: Payouts.

16                   MS. SCOTT: -- payouts, I  
17           brought my cell phone bills. On this  
18           one month I made thirty-seven calls.  
19           I've got the numbers on there, the  
20           242 numbers and the 353 numbers.  
21           I've got them all checked in red.  
22           Those are Gordon Persons personnel  
23           people that have left notes on the

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1 machine. I've got all of these to  
2 prove that we do pay payouts and we  
3 call these people.

4 Now, we don't go to people's  
5 office so they won't fall out with  
6 the supervisors or either with us, a  
7 complaint that we in there holding  
8 people up from their work. So I call  
9 them, and they come up to the snack  
10 machine when we get there. So those  
11 are lies. I've got proof that we do  
12 pay payouts. He's talking about he's  
13 got witnesses. What witness he got?  
14 Telling him we bring a gun and shoot  
15 personnel. Everybody down there has  
16 been so nice. The whites and the  
17 blacks. Everybody has been so nice.  
18 I don't know what's James  
19 Swearengin's problem. It's just that  
20 he doesn't like us, and it's no law  
21 against not liking nobody. But it's  
22 a way for him of retaliation.

23 HEARING OFFICER: Let me say

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1 that the purpose of a full  
2 evidentiary hearing under Section  
3 795-7-12-.04 of the applicable  
4 regulations is to receive evidence  
5 consistent with the blind evidence --  
6 the blind vendor's dissatisfaction  
7 with a decision of the commissioner.  
8 Okay. And so I would like to ask  
9 during your opening statement what  
10 decision of the commissioner is being  
11 challenged here.

12 MS. SCOTT: Well, we never heard  
13 anything from the commissioner.

14 MR. SCOTT: We never heard  
15 anything from the commissioner.

16 MS. SCOTT: He wasn't given a  
17 chance to. He wasn't given a chance  
18 to hear it. We didn't get a letter  
19 or anything from the commissioner.  
20 And anyway, they -- I'm glad you read  
21 the letter. But all these things in  
22 this letter is not true. We have not  
23 went in no secured area. We've been

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1 down there ten years. We haven't  
2 been in no secured area. Now, when  
3 Calvin first got inventoried in there  
4 March of 1995, Perry Hopper was his  
5 representative at the time before he  
6 got promoted to assistant director.  
7 And the temporary vendor that was  
8 there, when they inventoried Calvin  
9 in, they carried us all through those  
10 secured areas and didn't knock at the  
11 door. Swearengin had no complaint.  
12 And for the -- that building is three  
13 acres wide and long. And at the  
14 time, we only had three floors. So  
15 that means I'm walking three acres  
16 times three. Nine acres a day. I  
17 prayed so hard that God showed me a  
18 diagram on the wall and said you are  
19 here. So I told my husband, I said,  
20 I believe -- because we didn't know  
21 the building. And I said, I believe  
22 all those vending -- the break rooms  
23 are up on each elevator. I said,



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1 Let's get on the elevator and just go  
2 and ride and see. So we done that  
3 and we saw that it was. We'd go down  
4 another long hall to the other  
5 elevator and saw that it was. So I  
6 no longer had to knock at the  
7 security doors in 1995. During the  
8 second week God showed me a way  
9 through that building that we no  
10 longer had to knock at those doors.  
11 But when we were in there, we was  
12 taught the way to go. But God showed  
13 me another way that I didn't have to  
14 go and knock at no door.

15 It's just that January the 27th,  
16 2005, up on 4 Monroe and Ripley, that  
17 area has already been secured. Down  
18 the hallway doors, you would have to  
19 knock to get in there if you didn't  
20 have a key. But the door coming off  
21 the elevator that would take you to  
22 the break room and to the hallway  
23 hadn't been locked all the time. It

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1 had recently got locked and keyed us  
2 out that we couldn't get in with the  
3 key. Now, I'm going to tell you my  
4 feelings about what happened, the  
5 reason why we got keyed out.

6 Back in 2004 one night at the  
7 dog track James Swearengin, III,  
8 Swearengin's son, he was at the dog  
9 track. He saw me coming to the  
10 mutuel teller window with some money  
11 in my hand. He said, Did you just  
12 win that race, and I said, Yes. I  
13 said, Did you -- have you won a race  
14 yet, and he said, No. So I gave him  
15 six dollars and said, Here. Go see  
16 can you catch you a dog, and I went  
17 on to my seat. So he saw where I  
18 sit, and he came over. And he told  
19 me, he said, Loan me -- he said,  
20 asked me, said, Loan me twenty  
21 dollars. And I said, You want to  
22 borrow twenty dollars from me. He  
23 said, Yes. So I loaned him twenty

## FREEDOM COURT REPORTING

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1 dollars. Several weeks after that  
2 back in 2004 we was at the track  
3 because we usually be up there. And  
4 if he see me, he'll come and sit by  
5 me because we'll just quote scripture  
6 every time we see each other because  
7 he claimed that God had called him to  
8 preach. So we always quoted  
9 scripture when we'd see each other.  
10 And so that night he won a quinella  
11 that paid him forty-two dollars. I  
12 wasn't expecting him to pay me twenty  
13 dollars out of forty-two dollars.  
14 And after that he won another race  
15 that paid him eighty-eight dollars  
16 and some odd cents. So he went and  
17 cashed his tickets in. He come back  
18 and sat down. He didn't say nothing  
19 about the twenty dollars he owed me.  
20 I didn't care if he didn't give me  
21 two dollars and say, Here. Catch you  
22 a dog, because I gave him the six  
23 dollars. And so I asked him, I said,

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1 Aren't you going to pay me my twenty  
2 dollars. Oh, no. You don't pay  
3 people when you're gambling. I said,  
4 Listen here, you was gambling when  
5 you borrowed it and I didn't harass  
6 you about it. I didn't aggravate you  
7 when you asked to borrow twenty  
8 dollars. Get out from around me.  
9 You're unclean. I don't care to  
10 associate with you. Stay out of my  
11 company. So there was another fellow  
12 sitting down I haven't never seen  
13 before. What I noticed about him, he  
14 knew all the trainers. He could  
15 about tell you who was going to win  
16 the race. But I wasn't listening to  
17 him. He's sitting down beside  
18 Swearengin. I didn't know whether he  
19 was with him or knew him or not. So  
20 this fellow, whoever he was, he  
21 didn't like the way Swearengin, III,  
22 had responded to me about that twenty  
23 dollars. So when I went to put my

## FREEDOM COURT REPORTING

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1 wagers in, I noticed Swearengin had  
2 got up and walked down about a half a  
3 block near the bar. And when on my  
4 way back to the seat, I noticed that  
5 that fellow, he was standing up down  
6 there talking to Swearengin. And he  
7 come back up there and told me --

8 HEARING OFFICER: I think, you  
9 know, right now you are getting more  
10 into evidence rather than opening  
11 statements trying to tell me what the  
12 hearing is all about.

13 MS. SCOTT: I want to tell you  
14 the reason why I feel that we got  
15 keyed out.

16 HEARING OFFICER: Well, I mean,  
17 I can let you testify to that if it's  
18 relevant.

19 MS. SCOTT: Okay. I would like  
20 to -- I would like to finish telling  
21 you that, if I may.

22 HEARING OFFICER: Well, how much  
23 longer do you think it will be?

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1 MS. SCOTT: It's not long. It's  
2 not long. I'm near the end of it.

3 HEARING OFFICER: All right. Go  
4 ahead.

5 MS. SCOTT: Whoever this fellow  
6 was, he came back and told me that he  
7 cursed him out and called him MF. I  
8 don't like the way you treated her  
9 about the GD money. And I said,  
10 Listen, Mister. I don't come to the  
11 dog track for that. I said God is  
12 going to punish him I don't know how  
13 many fold for that twenty dollars.  
14 And I don't come up here for that.  
15 He said, You listen to me. I have  
16 respect for what you said. He said,  
17 But every time you see that MF, you  
18 ask him for your GD twenty dollars.  
19 Follow him all in the parking lot  
20 until he pay you. I said, Mister, I  
21 don't come up here for that. He can  
22 have the twenty dollars. I'm not  
23 studying the twenty dollars. He can

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1 have it, and I went on back to my  
2 seat.

3 He stayed away from me for  
4 several months until January 2005.  
5 One night I come back to my seat and  
6 he was sitting there in the chair  
7 next to where I -- he saw where I was  
8 sitting. And he says, Hey. I didn't  
9 say anything. How have you been? I  
10 didn't have no response. I just  
11 prayed in my heart that God would  
12 have him to get up because he's  
13 unclean and I didn't like how he  
14 treated me about that twenty dollars.  
15 And I didn't care to keep no company  
16 with him. So he finally got up. But  
17 shortly after that in January 2005,  
18 our key got keyed out, and I believe  
19 this is why. I don't know what his  
20 son went and told him. He should  
21 have told him all the truth. I  
22 believe and feel that this is why our  
23 key got keyed out because he seemed

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1 to have been very upset on January  
2 31st when I mentioned to him about  
3 that key. He seemed angry,  
4 Swearengin did. And I was wondering  
5 what was the matter with him. And  
6 then to come back to me about the  
7 relationship with him and his son  
8 that same month and like a week or so  
9 after that I'm keyed out. And when I  
10 came out and had the conference with  
11 Ray and Ken Green, they asked me,  
12 said, Have anything happened recently  
13 that he might have changed his mind.  
14 And that's what I told them, what I  
15 just got through saying. I can't  
16 prove that. But we'd had that key  
17 several months and wasn't having no  
18 problem with it. And he seemed upset  
19 and mad about something, and I didn't  
20 know what was the matter with him.  
21 We had done nothing to him.

22 Anyway, every time we have  
23 problems with him, he don't like us



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1 because we're black. First, they had  
2 two white vendors in that building.  
3 And every time Ken Green go and ask  
4 for a request for Calvin -- we asked  
5 for a request back in January. I  
6 wrote it up in -- we asked for one  
7 back in January. Well, it might have  
8 been the 26th. January 23rd when we  
9 went in his office and Fred Morris  
10 was giving us such a hard time about  
11 the loading dock or parking. I can  
12 park that van at the loading dock to  
13 go in and get the cart while my blind  
14 husband sit there while I come back  
15 for him to put the products up on the  
16 loading dock for me to put on the  
17 cart. I come back, and Fred Morris  
18 had got in that van, had driven  
19 Calvin down to the trash can like  
20 fifty feet away. I had to load up  
21 down at the trash can and put the  
22 cart up the ramp. So he done it  
23 several times. So we went in to find

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1 out who the building manager was,  
2 because Perry Hopper or nobody never  
3 introduced us to the building  
4 manager. So we told him how he was  
5 doing us. He was saying that it's a  
6 privileged parking loading dock. I  
7 said, Yeah, but that's not what I'm  
8 in here for. That's not the issue.  
9 I said, Your security guard is giving  
10 us a hard time out there, and I went  
11 on telling what he had done and all.  
12 I just said with him moving the car,  
13 me coming in and coming out to get  
14 the car.

15 HEARING OFFICER: I think we  
16 need to swear you in if you want to  
17 continue to recite evidence.

18 MS. SCOTT: Okay.

19 HEARING OFFICER: This is the  
20 place for opening statements. You  
21 will have the opportunity to offer  
22 relevant evidence.

23 MS. SCOTT: Okay. All right,

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1 then. All right, then.

2 HEARING OFFICER: But I still  
3 don't understand from your point of  
4 view what this -- what decision of  
5 the commissioner you-all are  
6 dissatisfied with. I mean, because  
7 as I understand it, I can only review  
8 a commissioner's decision.

9 MR. SCOTT: We have not --  
10 excuse me. We have not talked with a  
11 commissioner, nor heard from a  
12 commissioner.

13 HEARING OFFICER: I see.

14 MR. SCOTT: No, sir.

15 HEARING OFFICER: All right.

16 MS. SCOTT: But after Ray  
17 inventoried Calvin out --

18 HEARING OFFICER: Again, you're  
19 getting into evidence now.

20 MS. SCOTT: Okay.

21 HEARING OFFICER: Again, do you  
22 have anything else you want to say  
23 about the reason why I'm here?

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1 MS. SCOTT: Well, we was told by  
2 Judge Coody --

3 HEARING OFFICER: You're here  
4 just because the judge told you to be  
5 here.

6 MS. SCOTT: Because we had to go  
7 through these remedies, all these  
8 procedures before we could enter this  
9 lawsuit which has been filed.

10 HEARING OFFICER: Maybe the  
11 judge should have told you to start  
12 with the administrative review and  
13 then go to the commissioner, as I  
14 read this. But not everyone is  
15 familiar with these regulations.

16 I will hear from Mr. Simpson on  
17 behalf of the commissioner.

18 MR. SIMPSON: The -- this is a  
19 unique full evidently hearing,  
20 Mr. James. The Department's  
21 Administrative Code rules provide for  
22 a blind vendor who is dissatisfied  
23 with any decision made by the

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1 Department to initiate due process  
2 proceedings, the first step being  
3 informally discussing the decision  
4 with the Blind Vendor Enterprise  
5 Program representative. If the blind  
6 vendors is dissatisfied with whatever  
7 the outcome of that discussion is,  
8 they have a right to request an  
9 administrative review, which is an  
10 informal meeting between employees of  
11 the Department who have not been  
12 involved with the decision that the  
13 blind vendor is dissatisfied with to  
14 try to reach some resolution of that  
15 grievance.

16 The facts regarding Mr. Scott's  
17 participation in the program at the  
18 Gordon Persons Building in late  
19 January and early February of 2005  
20 led him to write a letter requesting  
21 an administrative review. And the  
22 Department set up two employees that  
23 had no prior involvement with any of

## FREEDOM COURT REPORTING

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1 the decisions made or any of the  
2 actions taken by the Department to  
3 meet with Mr. Scott. It was supposed  
4 to -- it was scheduled to take place  
5 on March 10th.

6 We have evidence that we intend  
7 to present about Mr. Scott's request,  
8 and the scheduling of that  
9 administrative review and his  
10 subsequent writing correspondence to  
11 us cancelling it, telling us he would  
12 not attend.

13 The Department was then later,  
14 much later served with a federal  
15 court lawsuit naming three  
16 departmental employees and the  
17 Department as defendants making  
18 allegations that are set forth in one  
19 of our exhibits which we've presented  
20 to you, the claim itself. And the  
21 Department filed a motion to dismiss  
22 with the federal court indicating  
23 that the -- a number of reasons why

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1 we felt the Court should dismiss it.  
2 But one of them was that Mr. Scott  
3 had failed to go through the process  
4 of a -- the Administrative Code Rules  
5 to seek administrative remedies  
6 through due process proceedings that  
7 were available to him, failing to  
8 exhaust the administrative remedies.

9 The judge issued an order  
10 ordering the Department to grant to  
11 Mr. Scott a full evidentiary hearing.  
12 The issues would appear to me to be  
13 those things that are -- that are  
14 factual allegations that are raised  
15 by the federal district court  
16 complaint. In normal circumstances,  
17 we would have correspondence from the  
18 blind vendor to the Department  
19 setting forth what he was complaining  
20 about. We didn't receive that except  
21 through the process of being served  
22 with the complaint filed in federal  
23 court. The judge didn't order us to

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1       conduct an administrative review,  
2       which is normally a preliminary to  
3       the full evidentiary hearing. He  
4       didn't order us to conduct a  
5       commissioner's conference which is  
6       also normally a preliminary step to  
7       the full evidentiary hearing. He  
8       ordered us to conduct a full  
9       evidentiary hearing, and that's why  
10      there's not a commissioner's decision  
11      to be evaluated by a hearing officer  
12      in this case. I think in order to  
13      comply with Magistrate Judge Coody's  
14      order, we have to conduct a hearing  
15      and report to him its outcome within  
16      five days, according to his order.  
17      The court order doesn't really give  
18      us any clear indication of what issue  
19      you're supposed to decide but the  
20      only thing that I can perceive as the  
21      issue is what was raised in the  
22      federal district court complaint.  
23      And we're prepared to present



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1 information and exhibits and  
2 testimony with regards to all of the  
3 allegations in that complaint today.

4 HEARING OFFICER: Ms. Fleming,  
5 do you wish to be heard?

6 MS. FLEMING: We waive our right  
7 to opening statement, Your Honor.

8 HEARING OFFICER: Well, let me  
9 hear from you-all on this  
10 proposition. It seems to me that  
11 there are a number of ways to look at  
12 this. Typically as a hearing  
13 officer, I will have a commissioner's  
14 decision and I am supposed to try and  
15 determine whether there's any error  
16 associated with this commissioner's  
17 decision. I'd just like to hear your  
18 comments on what -- how you would  
19 feel about my kicking this to the  
20 commissioner for a commissioner's  
21 hearing and the commissioner would  
22 then have the right to refer this  
23 back down for an administrative

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1 hearing with the idea that before  
2 this goes any further -- I mean, not  
3 an administrative hearing -- with the  
4 idea that before anything can happen,  
5 there has to be an administrative  
6 review and there has to be a  
7 commissioner's conference before  
8 there's any kind of evidentiary  
9 hearing. Now, the other side of  
10 that, one other way to look at it --  
11 and I'm sure that there are others  
12 who would look at it this way -- is  
13 that, number one, there was an  
14 administrative review scheduled. It  
15 was -- Mr. Scott declined to appear  
16 for that administrative review, and,  
17 therefore, he has waived his right to  
18 an administrative review and he's  
19 waived his right to a commissioner's  
20 conference and he's waived his right  
21 to an administrative hearing. Those  
22 are two ways to look at all of this.  
23 I'd like to hear from you any

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1 thoughts that you-all have on it.

2 MS. SCOTT: I would like to  
3 speak on behalf of Calvin.

4 HEARING OFFICER: Go ahead.

5 MS. SCOTT: Now, the reason why  
6 we didn't go to the administrative  
7 hearing, Ray had inventoried Calvin  
8 out. Before we heard anything from  
9 Ray and them, we got a call saying  
10 that I could no longer work with  
11 Calvin, which I have the letters  
12 here. And I wrote all the  
13 government, a lot of government  
14 people. I sent it to Congressman  
15 Rogers, President Bush, Office of  
16 Civil Rights and Representative Thad  
17 McClammy. I had written Swearengin's  
18 boss man, Jim Maine, finance  
19 director, and told them of this  
20 defamation of character and what was  
21 going on and that they had got  
22 together and collaborated and come up  
23 with a plan to push us out of this

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1 program because of three simple  
2 requests.

3 HEARING OFFICER: Let me just  
4 say that that's not really  
5 responsive. Nothing that you have  
6 said so far is responsive to the  
7 questions that I threw out.

8 MS. SCOTT: The reason why we  
9 didn't go to the administrative  
10 hearing --

11 MR. SCOTT: Let me answer that.

12 MS. SCOTT: -- because I wrote  
13 all those letters and the people --  
14 contacted the people and we got back  
15 to work. We had gone back to work.  
16 The administrative hearing was  
17 scheduled March the 10th. We went  
18 back to work.

19 HEARING OFFICER: You went back  
20 to work?

21 MS. SCOTT: Uh-huh.

22 HEARING OFFICER: So you did not  
23 feel that it was necessary for you to

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1 have it?

2 MR. SCOTT: Exactly.

3 MS. SCOTT: I've got proof of  
4 that.

5 HEARING OFFICER: So I take it  
6 something happened after that?

7 MS. SCOTT: Did something happen  
8 after that?

9 HEARING OFFICER: What happened  
10 after that?

11 MS. SCOTT: After we got back to  
12 work, quite naturally, all the  
13 machines was empty.

14 HEARING OFFICER: Are you  
15 working now?

16 MS. SCOTT: Uh-huh.

17 MR. SCOTT: Yeah. We're working  
18 now.

19 HEARING OFFICER: In the Gordon  
20 Persons Building?

21 MR. SCOTT: Yes, we are.

22 MS. SCOTT: We went back on  
23 March the 2nd. We got letters after

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1 all these people that I had contacted  
2 in Washington.

3 HEARING OFFICER: Do you have a  
4 swipe card?

5 MS. SCOTT: We've got a swipe  
6 card. He gave it to Ken Green and  
7 then he assigned it over to us.

8 HEARING OFFICER: Do you have a  
9 parking place?

10 MR. SCOTT: Let me answer this.  
11 Excuse me. Now, the parking place  
12 that James Buddy Swearengin gave us,  
13 on the left side I'm on the right  
14 side of the steps going up to the  
15 porch of the dock, which would  
16 basically cause us to have problems,  
17 because, see, that place over  
18 there --

19 MS. SCOTT: He asked you did you  
20 have a parking place. That's all.

21 MR. SCOTT: We have a parking  
22 place. Yeah.

23 MS. SCOTT: Don't worry about

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1           that.

2                   MR. SCOTT:   Okay.

3                   MS. SCOTT:   But that's why I  
4           said it wasn't necessary for the  
5           administrative review because we got  
6           letters stating that we could go back  
7           to work.   Now, what Swearengin's  
8           supervisor done, he -- what you call  
9           it -- rescinded his letter after he  
10          -- all these people contacted him and  
11          got all those calls.   We never heard  
12          anything from the different -- the  
13          lawyer out here with all the  
14          violations they had done.   And the  
15          more letters that we wrote Ray to  
16          tell him about the violations he  
17          done, the more letters he sent of  
18          harassment by Fed Ex and intimidation  
19          to try to push Calvin out of this  
20          program.

21                   HEARING OFFICER:   Okay.   Now,  
22          January 31st, I take it that was the  
23          date that you lost your swipe card?

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1 MS. SCOTT: That's the day he  
2 took the swipe card.

3 HEARING OFFICER: All right.  
4 Now, you say -- in your complaint in  
5 the federal court, you say that you  
6 identify four dates that your civil  
7 rights were violated?

8 MS. SCOTT: Uh-huh.

9 HEARING OFFICER: And I take it  
10 you're telling me that on January  
11 31st, Mr. Scott's civil rights were  
12 violated when the swipe card was  
13 taken?

14 MR. SCOTT: Uh-huh.

15 MS. SCOTT: Uh-huh.

16 HEARING OFFICER: Now, what  
17 event occurred on February 9?

18 MS. SCOTT: February 9 was when  
19 we got a call from Ken Green,  
20 Calvin's representative, and Perry  
21 Hopper, and we received some letters  
22 I think around about the 12th from  
23 Fed Ex telling -- do I need to



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1 present this?

2 HEARING OFFICER: Yeah. You  
3 need to show me what you're referring  
4 to.

5 MS. SCOTT: Okay. I appreciate  
6 it.

7 MS. FLEMING: I believe it's  
8 Exhibit 4, Your Honor.

9 HEARING OFFICER: Exhibit 4.

10 MS. FLEMING: Or it may be  
11 Exhibit 3.

12 MR. SIMPSON: It's 3. 3,  
13 actually.

14 HEARING OFFICER: All right.  
15 Exhibit 3. Let me just double check  
16 here. Exhibit 3. All right.

17 MS. SCOTT: It was February the  
18 9th.

19 HEARING OFFICER: February 9th,  
20 that's Exhibit 3.

21 MS. SCOTT: Uh-huh.

22 HEARING OFFICER: So you're  
23 saying that Exhibit 3 violated your

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1 constitutional rights?

2 MS. SCOTT: They wrote --

3 HEARING OFFICER: Violated

4 Mr. Scott's constitutional rights?

5 MS. SCOTT: Uh-huh. They wrote  
6 James Swearengin and told him that  
7 Gladys Scott, your current employee,  
8 is no longer approved by our agency  
9 as an assistant/driver for the blind  
10 vendor. Mr. Scott will retain a new  
11 assistant/driver approved by our  
12 agency. Mr. Scott and his employee  
13 will cooperate with building  
14 management to comply with all  
15 security --

16 HEARING OFFICER: You don't need  
17 to read for me. I can read.

18 MS. SCOTT: All right.

19 HEARING OFFICER: We're  
20 saying -- you're saying that this  
21 letter violated Mr. Scott's --

22 MS. SCOTT: Uh-huh. It did.

23 HEARING OFFICER: All right.

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1 Now, let's go to February the 14th.  
2 I believe that's the next date that's  
3 referenced in the complaint. What  
4 happened on that date?

5 MR. SIMPSON: It's Exhibit 6.

6 MS. FLEMING: It's Exhibit 5.

7 HEARING OFFICER: It will be  
8 Exhibit 5.

9 MR. SIMPSON: I think it is 5.  
10 I'm sorry.

11 HEARING OFFICER: Which is it?  
12 6.

13 MR. SIMPSON: You're right.  
14 It's 6.

15 HEARING OFFICER: And the claim  
16 is that Exhibit 6 violated  
17 Mr. Scott's constitutional right?

18 MS. SCOTT: Yes. Uh-huh.

19 MR. SCOTT: Uh-huh. Yeah.

20 HEARING OFFICER: Now let's go  
21 back to February the 22nd.

22 MS. SCOTT: Yes.

23 HEARING OFFICER: What occurred

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1 on that date?

2 MS. SCOTT: This is where he  
3 inventoried him out. We hadn't been  
4 gone but two weeks.

5 MR. SIMPSON: Exhibit 8.

6 MS. FLEMING: Exhibit 8.

7 HEARING OFFICER: Exhibit 8.

8 MS. FLEMING: Uh-huh.

9 HEARING OFFICER: That's 7,  
10 Exhibit 7. All right. I think I  
11 understand.

12 MS. SCOTT: You know, where the  
13 agency got together and was partaking  
14 with the building manager to push us  
15 out and come up with a plan to first  
16 get rid of me and they knew that  
17 they'd get rid of my husband. We  
18 haven't done nothing but work hard  
19 down there. Haven't never violated  
20 no -- no laws and no rules of that  
21 building. Got along with the  
22 personnel. The customers were very  
23 nice. And I said I don't know what

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1 James Swearengin's problem is.

2 HEARING OFFICER: Well, we need  
3 to swear you in at this time, if you  
4 don't mind.

5 GLADYS SCOTT

6 The witness, having been first  
7 duly sworn or affirmed to speak the truth,  
8 the whole truth, and nothing but the  
9 truth, testified as follows:

10 MS. SCOTT: But this is where  
11 Ray Dennis, the director, wrote  
12 Calvin a letter and told him he was  
13 going to throw him out on the 24th,  
14 but instead he throwed him out on the  
15 23rd of February. And he'd only been  
16 gone two weeks. And they caused all  
17 the problems by getting together with  
18 Swearengin. They violated the State  
19 Code laws. They are not supposed to  
20 oppress him and can't tell him who  
21 can work with him. They don't  
22 furnish the car. Neither do they pay  
23 the driver. That's unfair. But they

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1 tell him he's self-employed. And I'm  
2 guilty of working hard and assisting  
3 my husband all these years and having  
4 good conduct down in that building.  
5 Why I was told I couldn't come to the  
6 building? But he violated him then,  
7 and then he -- he burdened him. Then  
8 he violated the 21-9-1.

9 HEARING OFFICER: Of what?

10 MS. SCOTT: Of the Alabama State  
11 Code of Rehabilitation which reads  
12 that they're to keep these people  
13 working and they're not to burden  
14 them or their family.

15 Now, when they told Calvin that  
16 I couldn't work with him back here in  
17 this letter of February the 9th, when  
18 they told him I couldn't work with  
19 him, that put a burden on him. They  
20 only gave him three days to find  
21 somebody.

22 MR. SIMPSON: This is what she's  
23 referring to.

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1 HEARING OFFICER: Okay.

2 MR. SIMPSON: I did not provide  
3 you a copy of this.

4 HEARING OFFICER: I understand.

5 MS. SCOTT: But they went on and  
6 inventoried him out anyway.  
7 Rehabilitation did not support  
8 Calvin. If you read the letter that  
9 I wrote Office of Civil Rights, he  
10 didn't give him support. But all  
11 these other letters proved the fact  
12 that they wasn't giving Calvin the  
13 support that they should give him.  
14 So the only thing I told them in  
15 there, I said Nothing they could do  
16 about this agency. I told them what  
17 had happened between Swearengin and  
18 us, you know, about the swipe key and  
19 all. And I told them that the agency  
20 was not giving Calvin the support  
21 that they should be giving him and  
22 that he paid eleven percent of his  
23 income every month to them plus an

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1 escrow. I didn't say nothing  
2 negative about it. They should have  
3 came through with those requests like  
4 we asked them to. I told them to go  
5 to the utmost part. It didn't cost  
6 no money and to the bring those  
7 requests back to Calvin and that we  
8 not have no problems. And James  
9 Swearengin said we've got to move.  
10 So we didn't get no support. Yeah.  
11 They violated him. They broke about  
12 every rule in that State Code book.  
13 They broke every one of them. And  
14 here's another one they broke. Here  
15 it is. 795-7-2-04. Have y'all got  
16 that in there? Is that in that book?

17 MR. SIMPSON: Yes.

18 MS. SCOTT: It's 795-7-2-4. The  
19 removal from a BEP facility,  
20 suspension and termination of a  
21 license. The first paragraph there  
22 in that showed that they violated  
23 that, that the vendor -- said



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1           termination of a vendor shall occur  
2           only after affording the vendor an  
3           opportunity for a full evidentiary  
4           hearing. They never told us nothing  
5           about it. They inventoried him out  
6           and they gave him no hearing. They  
7           had a meeting on the 9th out of his  
8           presence and got together and  
9           collaborated with Swearengin to push  
10          us out.

11                   HEARING OFFICER: Well, let me  
12           ask you this. When you left the --  
13           when you were removed from the Gordon  
14           Persons Building, was Mr. Scott's  
15           license terminated or suspended?

16                   MS. SCOTT: No. They didn't  
17           terminate his license.

18                   MR. SCOTT: No. He didn't do  
19           that.

20                   MS. SCOTT: They didn't  
21           terminate his license, but he was  
22           removed. He was inventoried out.  
23           And they said he had to be -- it

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1 would occur only after affording the  
2 vendor an opportunity.

3 HEARING OFFICER: Well, what it  
4 says is that a suspension or  
5 termination of a license shall occur  
6 only after affording the vendor a  
7 full evidentiary hearing.

8 MS. SCOTT: Okay. You know, it  
9 reads like removal. And he was  
10 removed, and that's the part I'm  
11 looking at. Removal from a BEP  
12 facility, and he was removed from the  
13 BEP facility.

14 MR. SCOTT: Now --

15 MS. SCOTT: But that's what it  
16 is, 795-7-2-04, the removal of a BEP  
17 facility.

18 MR. SIMPSON: Could I address  
19 the question with regards to sending  
20 it back for the proceeding?

21 HEARING OFFICER: Yes.

22 MR. SIMPSON: This is an  
23 administrative hearing. The relief

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1           that the Scotts seek is a million  
2           dollars and imprisonment of three of  
3           the Department's employees. The --  
4           it's futile to conduct the due  
5           process proceedings with the relief  
6           that they seek because --

7                   HEARING OFFICER: Well, isn't it  
8           also futile to conduct this  
9           evidentiary hearing with the relief  
10          that they are seeking? I have no  
11          power to order -- as I understand it,  
12          I have no power to order anyone to  
13          pay damages and I have no power to  
14          imprison anyone in the county jail or  
15          sentence anyone to hard labor, not  
16          even for a minute or a day. I don't  
17          have that kind of power.

18                   MS. FLEMING: Your Honor, also  
19          with respect to the three things on  
20          the list that Ms. Scott has  
21          previously identified, the card key  
22          and the parking place and the moving  
23          of the machine, it's my understanding

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1           that those are the things that she  
2           was seeking before and those things  
3           have all been granted by the  
4           Department --

5                   HEARING OFFICER:   When were they  
6           granted?

7                   MS. FLEMING:   -- at this point.

8                   HEARING OFFICER:   When were they  
9           granted?

10                   MS. FLEMING:   Ms. Scott could  
11           speak to that.

12                   MS. SCOTT:   After all the  
13           letters we've written.

14                   HEARING OFFICER:   No.   Just  
15           answer that question, please.   When  
16           were these granted?

17                   MS. SCOTT:   We went back in  
18           March -- March the 2nd and they had  
19           moved the machines.   They had marked  
20           off a parking place and had written  
21           no parking on it.   And on March the  
22           2nd, Ken Green gave me a swipe key  
23           that Swearengin had given him.

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1 HEARING OFFICER: Okay. So the  
2 answer to my question is March the  
3 2nd?

4 MS. SCOTT: March the 2nd.

5 HEARING OFFICER: Okay.

6 MS. SCOTT: That was my  
7 knowledge of it, you know.

8 HEARING OFFICER: What evidence  
9 do I need to hear here today?

10 MR. SIMPSON: Well, there is --  
11 the Department would present  
12 information that Mr. Scott was  
13 actually never removed from his  
14 facility. He chose not to go and  
15 work in the building where his  
16 business resides because a condition  
17 was placed on him that he have  
18 someone else other than his wife  
19 accompany him and assist him. He was  
20 sent correspondence indicating that  
21 he was going to be removed from his  
22 facility. But before an actual  
23 inventory could take place, the

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1 owners of that building where the  
2 business operates changed their mind  
3 and indicated that his wife could  
4 accompany him. And he went back and  
5 has ever since March the 2nd  
6 performed his job there.

7 I say this with regards to your  
8 question of what would the Department  
9 present. I think the Scotts would  
10 disagree as to my characterization of  
11 what happened because of what I've  
12 heard this morning about their  
13 contentions that he was removed from  
14 his facility. It would be our  
15 contention that he never was.

16 MS. SCOTT: Well, here's a  
17 letter saying that it could take  
18 place whether you're there or not.  
19 And I'm going to find the  
20 inventory --

21 HEARING OFFICER: Let me ask you  
22 this. Let me ask you this,  
23 Mr. Scott. What do you want from me

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1 other than one million dollars,  
2 imprisonment of the defendants in the  
3 county jail or sentence them to hard  
4 labor and that the defendants resign  
5 from their appointed offices?

6 MS. SCOTT: That was for  
7 Swarengin.

8 HEARING OFFICER: No. I want  
9 you to answer my question.

10 MR. SCOTT: I'm going to answer  
11 it. I'm going to answer it. For  
12 you-all -- for the Business  
13 Enterprise Program for the blind, I'm  
14 asking for a million dollars for Ray  
15 Dennis, a million dollars for Perry  
16 Hopper, a million dollars for Ken  
17 Green for their action behind James  
18 Swarengin. Yes, sir.

19 HEARING OFFICER: What else do  
20 you want from me?

21 MR. SCOTT: Plus, to be sure  
22 even though -- let me go back to  
23 another thing. What is your name?

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1 HEARING OFFICER: My name is  
2 Frank James.

3 MR. SCOTT: Frank James. Now,  
4 see, the reason that we are back  
5 working at the Gordon Persons office  
6 building, it was not voluntarily from  
7 them, because Ray Dennis kept sending  
8 me Fed Ex letters threatening me  
9 that -- to not bring my wife down to  
10 that building, that she couldn't  
11 drive my car, that she couldn't help  
12 me nowhere in my business. And she  
13 has been with me for forty years.  
14 And I'm going to get rid of her for  
15 no reason whatsoever? No, sir, I  
16 cannot do it.

17 MS. SCOTT: And may I say this?

18 HEARING OFFICER: No. Wait just  
19 a minute, now.

20 Your wife is your assistant  
21 right now?

22 MR. SCOTT: Yes, sir.

23 HEARING OFFICER: Is there any



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1 threatening that she cannot be your  
2 assistant, any current threat that  
3 she cannot be your assistant?

4 MR. SCOTT: There is not now.  
5 But, you see, the whole deal, people,  
6 they are always planning things to  
7 wreck against you if they can. And  
8 I'll be honest with you. I do not  
9 appreciate -- Lord knows I don't -- I  
10 do not appreciate their actions  
11 toward us and my wife. My wife works  
12 hard with me in this program. See,  
13 we never violate no laws. We never  
14 violate with any part of the business  
15 that we're supposed to take care of  
16 in this program. But yet, she,  
17 according to James Swearengin's lies,  
18 was not allowed into that Gordon  
19 Persons office building. And these  
20 people went right along with them to  
21 terminate -- to stop her from working  
22 with me because of James Swearengin's  
23 lies. And I do not appreciate that.

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1 HEARING OFFICER: Is there  
2 anything else you want from me  
3 besides a million dollars from each  
4 defendant?

5 MS. SCOTT: And Ray Dennis -- if  
6 I may speak.

7 HEARING OFFICER: No. I'm  
8 asking about relief.

9 MS. SCOTT: Oh, okay. All  
10 right.

11 HEARING OFFICER: Okay.

12 MS. SCOTT: Okay.

13 HEARING OFFICER: At the end of  
14 this hearing, is there anything else  
15 you want from me other than to order  
16 the defendants to pay you one million  
17 dollars each?

18 MR. SCOTT: Plus I want the cost  
19 of court.

20 HEARING OFFICER: Anything else?

21 MR. SCOTT: Well, basically the  
22 other thing I want them to do, we  
23 have not caused any problems in this

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1           job program. Until we do, leave us  
2           alone. Now, we -- we don't violate  
3           no laws, no building laws or no laws.  
4           Sure don't.

5                   HEARING OFFICER: All right.  
6           Now, I think I understand. Do you  
7           wish to offer any evidence at this  
8           time?

9                   MS. SCOTT: Well, the letters  
10          here that --

11                   HEARING OFFICER: All right.  
12          Let me just say that -- that -- let  
13          me make sure I get this right here.  
14          I have before me Exhibits 1 through  
15          12 and 15 plus Exhibits 16 through  
16          19, I believe, or maybe 20. 16  
17          through 20. Is there any other  
18          evidence that you want to -- any  
19          other documents that you want to --

20                   MS. SCOTT: Yes.

21                   HEARING OFFICER: Which ones are  
22          those?

23                   MS. SCOTT: These are the

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1 letters that we wrote Ray Dennis.  
2 And every time we wrote him and told  
3 him about the laws he broke, the more  
4 letters kept coming. The more  
5 letters kept coming.

6 HEARING OFFICER: I believe that  
7 Mr. Simpson has --

8 MR. SIMPSON: I think those  
9 might be included in this notebook.

10 HEARING OFFICER: Okay. Which  
11 ones are you referring to? Give me  
12 the dates on your letters.

13 MS. SCOTT: February the 14th  
14 that we wrote Ray.

15 HEARING OFFICER: Is that a  
16 letter from Calvin Scott to Ray  
17 Dennis?

18 MS. SCOTT: Uh-huh.

19 HEARING OFFICER: I have that.

20 MS. SCOTT: February 15.

21 HEARING OFFICER: Is that a  
22 letter from Calvin Scott to Ray  
23 Dennis?

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1 MS. SCOTT: Uh-huh.

2 HEARING OFFICER: I have that.

3 That's Exhibit 7.

4 MS. SCOTT: February the 22nd  
5 here.

6 HEARING OFFICER: I've got a  
7 February 22nd letter from Ray Dennis  
8 to Calvin Scott, Exhibit 8. Is that  
9 it?

10 MS. SCOTT: Uh-huh. And you've  
11 got the letters that Ray wrote Calvin  
12 on February the 9th. Is that in the  
13 exhibits?

14 HEARING OFFICER: A February 9,  
15 2005 letter from Ray Dennis to James  
16 Buddy Swearengin, that's Exhibit 4.  
17 A February 9, 2005 letter from Ray  
18 Dennis to Calvin Scott is Exhibit 3.  
19 Have I got them all?

20 MS. SCOTT: Have you got the  
21 February 22nd letter?

22 HEARING OFFICER: February 22nd  
23 letter from Ray Dennis to Calvin